

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES

v.

AMIN A. RASHID

**CRIMINAL ACTION
NO. 93-264**

**CIVIL ACTION
NO. 12-5313**

ORDER

AND NOW, this 22nd day of August, 2014, upon consideration of (1) defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241 (Document No. 1, Civ. No. 12-5313,¹ filed September 17, 2012), Government's Response to Court's Order of March 25, 2013 (Document No. 14, Civ. No. 12-5313, filed April 15, 2013), Petitioner's Reply to Government's Response to Court's Order of March 25, 2013 (Document No. 544, Crim. No. 93-264, filed April 22, 2013), Government's Response to Court's Order of August 9, 2013 (Document No. 34, Civ. No. 12-5313, filed August 26, 2013); (2) Amin A. Rashid's Motion for Summary Judgment (Document No. 51, Civ. No. 12-5313, filed March 18, 2014); and (3) Amin A. Rashid's Proposed Order Granting His Unopposed Motion for Summary Judgment (Document No. 52, Civ. No. 12-5313, filed July 18, 2014), for the reasons stated in the accompanying Memorandum dated August 22, 2014, **IT IS ORDERED** as follows:

1. Defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241 is **DENIED** with

¹ Upon the filing of defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241, the Clerk of the Court opened a related civil action, No. 12-5313, separate from defendant's criminal action, No. 93-264. Some, but not all, of the documents related to defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241 are docketed in defendant's civil case. The Court will refer to the document numbers in the civil action, if possible, when describing the filings related to defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241.

respect to his remaining claim, Ground Three,² in which defendant asserts that the Supreme Court decision in *United States v. Santos*, 553 U.S. 507 (2008) rendered his conduct non-criminal;

2. The part of Amin A. Rashid's Motion for Summary Judgment (Document No. 51) and Amin A. Rashid's Proposed Order Granting His Unopposed Motion for Summary Judgment (Document No. 52) that seeks relief based on claims asserted in Ground Three of defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241 is **DENIED**. The Court considered the arguments raised in these submissions in ruling on Ground Three of defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241; and,

3. The part of Amin A. Rashid's Motion for Summary Judgment (Document No. 51) and Amin A. Rashid's Proposed Order Granting His Unopposed Motion for Summary Judgment (Document No. 52) that seeks relief based on claims that were not asserted in Ground Three of defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241 constitutes an unauthorized second or successive habeas motion, submitted in violation of 28 U.S.C. §§ 2244(b)(3)(A), 2255(h), and is **DISMISSED**.

IT IS FURTHER ORDERED that a certificate of appealability will not issue with respect to the ruling in Paragraph Three of this Order because defendant has not made (1) "a credible showing that the district court's procedural ruling was incorrect" or (2) "a substantial showing that the underlying habeas petition alleges a deprivation of constitutional rights."

Morris v. Horn, 187 F.3d 333, 340 (3d Cir.1999); *see also* 28 U.S.C. § 2253(c). A certificate of

² Grounds One and Two of defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241 are not presently before the Court. By Order dated February 19, 2013, defendant was prohibited from pursuing Grounds One and Two of the Habeas Corpus Petition Under 28 U.S.C. § 2241 because those grounds were identical to claims that the Court denied on the merits in a 2010 Rule 60(b) motion. By Order dated March 22, 2013, defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241 was deemed filed only with respect to Ground Three.

appealability is not required with respect to the Court's rulings in Paragraphs One and Two of this Order, which address issues related to Ground Three of defendant's Habeas Corpus Petition Under 28 U.S.C. § 2241. Rulings with respect to motions under 28 U.S.C. § 2241 do not require a certificate of appealability as a prerequisite to filing a notice of appeal. *See Daley v. Fed. Bureau of Prisons*, 192 F. App'x 106, 109 (3d Cir. 2006).

BY THE COURT:

/s/ Hon. Jan E. DuBois

DuBOIS, JAN E., J.